

*Seetha Vora*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SDS SDNY  
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UNITED STATES OF AMERICA,

Plaintiff,

- v -

ONE BYZANTINE BRONZE POLYCANDELON,  
circa 6<sup>th</sup> Century A.D., listed as Lot No. 196 in Christie's  
"Antiquities Sale," June 8, 2007, New York, New York,  
and

ONE BYZANTINE MARBLE AND GLASS MOSAIC  
PANEL, circa 5<sup>th</sup>-6<sup>th</sup> Century A.D., listed as Lot No. 197 in  
Christie's "Antiquities Sale," June 8, 2007,

Defendants in rem.

DOC #:

DATE FILED: 6/18/09

STIPULATION AND ORDER  
OF SETTLEMENT AND  
DISCONTINUANCE

08 Civ. 10510 (RJS)

WHEREAS, on April 14, 2008, the Honorable James C. Francis IV, United States Magistrate Judge for the Southern District of New York, issued a seizure warrant for the above-captioned Defendants in rem based on a finding of probable cause that they are subject to seizure and civil forfeiture pursuant to 18 U.S.C. §§ 545 and 981(a)(1)(C) and 19 U.S.C. § 1595a(c);

WHEREAS, on or about April 15, 2008, Special Agents of United States Department of Homeland Security, Immigration and Customs Enforcement ("ICE") executed the seizure warrant and took custody of the Defendants in rem;

WHEREAS, on December 3, 2008, the United States commenced this action by the filing of a Verified Complaint seeking forfeiture of the Defendants in rem pursuant to 18 U.S.C. §§ 545 and 981(a)(1)(C), and 19 U.S.C. § 1595a(c);

WHEREAS, on or about January 9, 2009, Advanced Industrial Technology Corporation ("AITCO" or "Claimant") filed a claim to the Defendants in rem;

WHEREAS, beginning on December 26, 2008, and for at least thirty consecutive days thereafter, pursuant to Rule G(4)(a)(iv)(C) of the Supplemental Rules for Certain Admiralty and Maritime Claims and Asset Forfeiture Actions, the United States posted notice of the Verified Complaint against the Defendants in rem on [www.forfeiture.gov](http://www.forfeiture.gov), an official government internet site. Proof of publication was filed with the Clerk of the Court on February 23, 2009;

WHEREAS, as set forth in Rule G (4)(a)(ii) and Rule G (5)(a)(ii), the notice of forfeiture specified the Defendants in rem and the intent of the United States to forfeit and dispose of the Defendants in rem, thereby notifying all third parties of their right to file a Claim to adjudicate the validity of their alleged legal interest in the Defendants in rem, within sixty days from the first day of publication of the Notice on the official government internet web site;

WHEREAS, no other claims or answers have been filed or made in this action and the statutory time periods for doing so, as set forth in Rule G (5)(a)(ii), have expired;

WHEREAS, the United States and the Claimant have reached an agreement to resolve this matter without further litigation, on the terms and conditions set forth below.

IT IS HEREBY STIPULATED and AGREED by and between the United States Attorney's Office for the Southern District of New York, Lev L. Dassin, Acting United States Attorney (the "Government"), and the Claimant, AITCO (together, the "Parties"), as follows:

1. Upon the Court's endorsement of this Stipulation and Order and its entry on the docket, this action is hereby dismissed with prejudice.

2. Within ten business days after entry of the Court's endorsement of this Stipulation and Order, the United States Department of Homeland Security, Immigration and Customs Enforcement ("ICE"), its agent or designee, will release the Defendants in rem to the Claimant or

its authorized agent or designee. ICE and the Claimant each agree that it will make the necessary arrangements for the Claimant, its authorized agent or designee to pick up the Defendants in rem at Fortress New York, 49-20 Fifth Street, Long Island City, NY 11101.

3. Upon entry of the Court's endorsement of this Stipulation and Order, AITCO will be barred from asserting any claim against the United States or any of its agents and employees, including the U.S. Department of Homeland Security, ICE, and Customs and Bureau Protection, and the United States Attorney's Office for the Southern District of New York, in connection with, or arising out of the United States' seizure and possession of the Defendants in rem, including but not limited to any claim that the United States did not have probable cause to seize and hold the Defendants in rem, except to enforce the terms of this Stipulation and Order.

4. Upon entry of the Court's endorsement of this Stipulation and Order, AITCO further agrees to hold harmless the United States and any and all of the United States' agents and employees, including the U.S. Department of Homeland Security, ICE, and Customs and Bureau Protection, and the United States Attorney's Office for the Southern District of New York, from any claim by a third party asserting ownership of the Defendants in rem.

5. Each party will bear its own costs and attorney's fees.

6. The undersigned United States signatory represents that she is signing this Stipulation and Order in her official capacity and that she is authorized to execute this Stipulation and Order. The undersigned counsel for AITCO represents that he is authorized by AITCO to sign this Stipulation and Order on its behalf.

7. This Stipulation and Order may be executed in counterparts, each of which will be deemed an original, and all of which, when taken together, will be deemed the complete Agreement.

8. The Court will have exclusive jurisdiction over the interpretation and enforcement of this Stipulation and Order.

9. This Stipulation and Order constitutes the complete agreement between the Parties and may not be amended except by written consent of the Parties.

Dated: New York, New York  
June 15, 2009

LEV L. DASSIN  
Acting United States Attorney for  
the Southern District of New York

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**SO ORDERED:**

R. J. Sullivan  
Hon. Richard J. Sullivan  
United States District Judge

6/17/09  
Date

*This action is  
dismissed with prejudice.  
The June 2, 2009 Scheduling  
order is, accordingly, vacated.*